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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,958	01/29/2002	Michael Basara	3687-21	3563

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EXAMINER

MEREK, JOSEPH C

ART UNIT PAPER NUMBER

3727

DATE MAILED: 02/11/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/057,958

Applicant(s)

BASARA, MICHAEL

Examiner

Joseph C. Merek

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 7-10 is/are pending in the application.
- 4a) Of the above claim(s) 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 1.7.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.7.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Terminal Disclaimer***

The terminal disclaimer filed on 10/21/03 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US 6,349,841 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 7-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It has not been adequately supported that the outer layer cannot penetrate through the inner layer. This is a new matter rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7- 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Boehm et al (US 4,460,534) in view of Morin (US 3,354,2439). Regarding claims 7-9, Boehm et al teaches a continuous inner hollow body over a outer hollow body but does not each the different sizes of the penetrations or the acute angle of the projections. Morin teaches a similar structure where the projections are of different sizes and shapes and that the projections have acute angles. It would have been obvious to employ the different shapes and sizes of Morin in the body of Boehm et al to allow for use with a telephone as taught Morin. It would have been obvious to employ the acute angle of Morin in the body of Boehm et al to prevent separation of the two parts. Regarding claims 8 and 9, both materials are molded in a fluid flowing state.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Danielson et al (US 2,663, 910) in view of Gits (US 3,031,722) and further in view of Boehm et al (US 4,460,534). Regarding claim 7, as seen in Figs. 1-6, Danielson et al teaches a box-shaped hollow container at least a first discrete outer hollow body A and second discrete inner hollow body D interpenetrating with one and other to form an integral container structure, the integral container structure having a continuous inner surface without gap and an external surface patterned in a zone or section comprising a portion of the inner hollow body emerging through the opening in the outer hollow body to form a substantially continuous decorated outer surface with the opening located along the outer hollow body and having a shape and a size , said inner hollow body being formed along the inside of the first outer body and including a continuous inner

surface and an outer surface having a raised portion corresponding in shape , size and thickness to the shape, size and thickness of the opening, the raised portion being formed within the opening and peripherally exactly and intimately matching the edge of the opening to form a smooth continuous outer surface along the container structure , said edge of the opening forming an acute angle at the junction of the edge with an outer surface of said first outer hollow body, said inner hollow body and the outer hollow body being formed of plastic material but does not teach openings and the openings being variously located along the outer surface and having various shapes and sizes. Gits '722, as seen in Fig. 2 and 3, teaches a similar structure to Danielson et al where the container has openings variously located along the outer hollow body and having various shapes and sizes. It would have been obvious to employ the openings of Gits '722 in the container of Danielson et al to provide an alternative design for the container or to include the letters that go with the numbers as taught by Gits '722. The modified body of Danielson et al teaches that the outer body penetrates the inner body. Boehm et al teaches a similar structure where it is not necessary for the outer body to penetrate the inner hollow body. It would have been obvious to eliminate the penetrations of Danielson et al as taught by Boehm et al to provide a smooth and continuous interior as taught by Boehm et al. Regarding claims 8 and 9, the outer hollow body and the inner hollow body are formed of a material that is capable of changing its physical state from a flowing fluid to a solid container. The materials of Danielson et al are injection molded and therefore must be fluid to flow into the mold. The materials harden into a solid

when cooled. Moreover, the limitations do not require any structure in the article that is not in the combination of references.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Both Dofsen et al and Tucker are cited for teaching hollow bodies formed from two layers where the inner layer is continuous and the outer layer does not penetrate through the inner layer.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

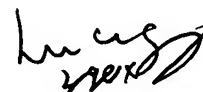
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



JCM

February 9, 2004



LEE YOUNG

SUPERVISORY PATENT EXAMINER  
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